IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS DALLAS DIVISION

MAXIMO MARTINEZ, 06063495,)
Petitioner,)
v.) No. 3:07-CV-0076-D) ECF
NATHANIEL QUARTERMAN, Director, Texas)
Dept. Of Criminal Justice, Correctional)
Institutions Division,)
Respondent.)

FINDINGS, CONCLUSIONS AND RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE

Pursuant to the provisions of 28 U.S.C. § 636(b) and an order of the District Court, this case has been referred to the United States Magistrate Judge. The findings, conclusions and recommendation of the Magistrate Judge follow:

Statement of Case:

Petitioner filed this suit pursuant to 28 U.S.C. § 2254. On August 13, 2007, the Court granted Petitioner's motion to proceed *in forma pauperis*. On September 26, 2007, the order was returned to the Court because Petitioner was no longer at the Dallas County Jail. On January 16, 2008, the Court entered an order to Respondent to file his answer. On January 25, 2008, the order was returned from Petitioner because he is no longer at the Dallas County Jail. Petitioner has not provided the Court with any alternative address.

Discussion:

Rule 41(b) of the Federal Rules of Civil Procedure allows a court to dismiss an action *sua sponte* for failure to prosecute or for failure to comply with the federal rules or any court order. *Larson v. Scott*, 157 F.3d 1030, 1031 (5th Cir. 1998). "This authority [under Rule 41(b)] flows

from the court's inherent power to control its docket and prevent undue delays in the disposition

of pending cases." Boudwin v. Graystone Ins. Co., Ltd., 756 F.2d 399, 401 (5th Cir. 1985) (citing

Link v. Wabash, R.R. Co., 370 U.S. 626, 82 S.Ct. 1386 (1962)). Petitioner has failed to provide

the Court with a current address. The Court is therefore unable to contact Petitioner.

Accordingly, his petition for writ of habeas corpus should be dismissed for want of prosecution.

RECOMMENDATION:

The Court recommends that the petition for writ of habeas corpus be dismissed without prejudice for want of prosecution, pursuant to Fed. R. Civ. P. 41(b).

Signed this 4th day of February, 2008.

PAUL D. STICKNEÝ

UNITED STATES MAGISTRATE JUDGE

INSTRUCTIONS FOR SERVICE AND NOTICE OF RIGHT TO APPEAL/OBJECT

The United States District Clerk shall serve a copy of these findings, conclusions and recommendation on Plaintiff by mailing a copy to him by United States Mail. Pursuant to Title 28, United States Code, Section 636(b)(1), any party who desires to object to these findings, conclusions and recommendation must serve and file written objections within ten days after being served with a copy. A party filing objections must specifically identify those findings, conclusions or recommendation to which objections are being made. The District Court need not consider frivolous, conclusory or general objections. A party's failure to file such written objections to these proposed findings, conclusions and recommendation shall bar that party from a de novo determination by the District Court. See Thomas v. Arn, 474 U.S. 140, 150 (1985). Additionally, any failure to file written objections to the proposed findings, conclusions and recommendation within ten days after being served with a copy shall bar the aggrieved party from appealing the factual findings and legal conclusions of the Magistrate Judge that are accepted by the District Court, except upon grounds of plain error. Douglass v. United Servs.

Auto. Ass'n, 79 F.3d 1415, 1417 (5th Cir. 1996) (en banc).